

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEANDRE REDDING,	§
	§ No. 185, 2006
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0203014274
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 30, 2006

Decided: July 14, 2006

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 14th day of July 2006, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Deandre Redding, filed an appeal from the Superior Court's March 31, 2006 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) In October 2002, Redding was found guilty by a Superior Court jury of Robbery in the First Degree, Burglary in the First Degree, Theft of a Firearm, Possession of a Firearm During the Commission of a Felony, Wearing a Disguise During the Commission of a Felony, and Endangering the Welfare of a Child. He was sentenced to a total of 8 years of Level V incarceration, to be followed by probation. Redding's convictions and sentences were affirmed by this Court on direct appeal.²

(3) In this appeal, Redding claims that: a) his prosecution for both robbery and burglary constituted a double jeopardy violation and was motivated by a malicious intent; b) his trial counsel provided ineffective assistance by failing to move for a suppression hearing and object on double jeopardy grounds to his convictions of both robbery and burglary; and c) the Superior Court should have granted his procedurally barred claims under Rule 61's "interest of justice" exception.

(4) Redding's first claim is that his prosecution violated double jeopardy and was motivated by malice. However, Redding offers no factual support for his argument that the State engaged in a malicious prosecution.

¹ Supr. Ct. R. 25(a).

² *Redding v. State*, Del. Supr., No. 81, 2003, Steele, J. (Sept. 23, 2003).

Moreover, Redding's argument that his prosecution for both robbery and burglary constitutes a double jeopardy violation is incorrect as a matter of law.³ We, therefore, find Redding's first claim to be without merit.

(5) In order to prevail on his claim of ineffective assistance of counsel, Redding must demonstrate that his counsel's representation fell below an objective standard of reasonableness and that, but for his counsel's unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.⁴ Although not insurmountable, the Strickland standard is highly demanding and leads to a "strong presumption that the representation was professionally reasonable."⁵ Redding has failed to demonstrate that his counsel erred by failing to move for a suppression hearing or object on double jeopardy grounds to his convictions of both robbery and burglary or that any alleged error on the part of his counsel resulted in prejudice to him. For these reasons, we find that this claim, too, is without merit.

(6) Redding's final claim is that the Superior Court should have granted his claims under Rule 61's "interest of justice" exception. We find that the Superior Court correctly determined that the "interest of justice"

³ Del. Code Ann. tit. 11, § 827; *Cook v. State*, 600 A.2d 352, 354-56 (Del. 1991).

⁴ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁵ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

exception did not apply to Redding's claims. There was no evidence of a "colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction."⁶ We, therefore, find Redding's final claim to be without merit.

(7) It is manifest on the face of Redding's opening brief that the appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁶ Super. Ct. Crim. R. 61(i) (5).